

Remarks

Claims 1-19 and 21 are pending, claim 20 is canceled.

Claims 1-8 are the original claims.

Claims 9-14 were copied from the U.S. Patent 6,319,188 (the “‘188 Patent”) to Lovoi as illustrated:

Instant Application	‘188 Patent;
claim 9	claim 1
claim 10	claim 2
claim 11	claim 7
claim 12	claim 9
claim 13	claim 12
claim 14	claim 13

Claims 15-21 were presented as part of this reissue application.

Claims 1-19 and 21 are under examination and stand rejected on various grounds.

Claims 9-17 are objected to for various reasons. Additionally the drawings are objected to for various reasons. These rejections and objections are respectfully traversed by the Applicant, for the reasons stated below.

Objections to the Drawings

The drawings have been objected to under 37 CFR §1.83(a) for adding new matter. Applicant disagrees. Support for these elements can be found throughout the original specification of U.S. Pat. No. 6,320,932 and at least in the following portions of: Col. 2, lines 17-21; Col. 3, line 20- Col. 5, line 9; Col. 2 line 60 - Col. 6 line 14; and Figs 5 and 6, and corresponding description in Col. 7, line 21 to Col. 8 line 25.

An applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented (*see*, 37 CFR §1.81)

but otherwise a drawing is not essential if the specification provides an adequate disclosure of the invention. Likewise, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, need not be specifically presented in the drawings (*see*, 37 CFR §1.83).

Applicant hereby requests withdrawal of the objection to the drawings.

Objections to the Claims

The claims have been objected to as being in improper format. Applicant introduced these claims in a Response dated August 23, 2005, and the claims are not new. Applicant believes the claims are in the proper format, and requests withdrawal of this objection.

Claims 9-17 have been objected to, in all instances for lack of antecedent basis in the claims. See page 4 of the Office Action.

Claims 9-14 are copied from U.S. Patent 6,319,188, and were patentable as written above, in that case. Therefore, Applicant maintains the limitations specified in claims 9-14 have appropriate antecedent basis in the claims.

Claims 15-17 have been amended.

Applicant hereby requests withdrawal of the objection to the claims.

Interference

The Office contends that Applicant has suggested an interference with U.S. Patent 6,319,188, in the Response filed 20 November 2003.

Applicant did not suggest initiating an interference proceeding in that communication, or in any other communications with the Office. Under 37 C.F.R. 41.102(a), examination of an application must be concluded before any interference may commence, and the instant application has not (to date) resolved issues of patentability of the presented claims.

But claims 9-14 of the instant application are copied from the '188 Patent. Applicant hereby reserves all rights to provoke such interference under 37 C.F.R. 41.202 and present

evidence in connection with same, upon a determination by the Examiner that the claims in this application are otherwise allowable. Claims 18, 19 and 21 were not copied from any patent, but were introduced by Applicant in this reissue application in order to claim subject matter to which Applicant was entitled, and failed to claim originally, without deceptive intent.

Rejections Under 35 USC §112, Second Paragraph

The Office has rejected claims 16 and 21 under 35 USC §112, Second Paragraph for being indefinite. Applicant respectfully amends these claims and traverses these rejections.

The claim recites “an x-ray tube coupled to a distal end of said optical fiber, comprising a substantially rigid housing defining a substantially evacuated interior region extending between a proximal end and a distal end of said housing, said housing containing a thermionic cathode and an x-ray target between its proximal and distal ends, said distal end of said housing comprising x-ray transmissive material; wherein the thermionic cathode is responsive to said optical radiation transmitted to said distal end to emit electrons...”. The distal end of the optical fiber would transmit the light to the thermionic cathode, generating the radiation. The distal end of the x-ray tube provides transmission of the x-rays. Similarly, as to claim 21, the distal end of the optical fiber would transmit the light to the thermionic cathode. The proximal end of the optical fiber would be connected to a light source. Thus, Applicant considers these claims 16 and 21 to be definite as amended.

Claim 21 is rejected for not having sufficient antecedent basis as to “said x-ray target”. Support for this can be found throughout the original specification of U.S. Pat. No. 6,320,932 and at least in the following portions of: Col. 2, lines 17-21; Col. 3, line 20- Col. 5, line 9; Col. 2 line 60 - Col. 6 line 14; and Figs 5 and 6, and corresponding description in Col. 7, line 21 to Col. 8 line 25.

Applicant respectfully traverses the rejection under 35 USC §112, Second Paragraph and requests withdrawal of this rejection.

Rejections Under 35 USC §102 and §103

The claims stand rejected under 35 USC §102(e) in view of the '188 Patent. Furthermore, the claims stand rejected under 35 USC §103(a) as being unpatentable over the '188 Patent in view of Oettinger et al. (U.S. Patent 5,428,658).

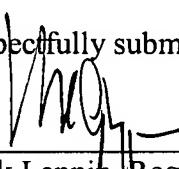
The Office contends, but Applicant disagrees, that a Rule 131 affidavit is not appropriate in this instance. Some, but not all of the presented claims are identical to the '188 Patent, and a Rule 131 affidavit is appropriate as to these non-copied claims and as to the 35 USC §103(a) rejection. Both prior art rejections nevertheless address the '188 Patent. Oettinger et al. has been overcome in prior responses, and is not deemed by Applicant as relevant here, other than in combination with the '188 Patent, (from which certain claims have been copied). As such, only the '188 Patent presents any significant issue as to anticipation of the present claims, either alone or in combination. Since Applicant would be offering proof in an interference, of prior invention of the commonly claimed subject matter, Applicant contends that the determination as to which patent reference (the '188 Patent or the instant reissue application) anticipates the other, is properly the subject of any interference.

Conclusion

Applicants submit that the claims in the instant application are allowable and such action is respectfully requested. The Commissioner is hereby authorized to charge payment of any filing fees required in connection with the papers transmitted herewith, or credit any overpayment of same, to Deposit Account No. 19-0741 (Reference No. 082251-0153).

Should any questions or issues arise concerning the application, the Examiner is encouraged to contact the undersigned at the telephone number 617-342-4000.

Respectfully submitted,



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Date: August 1, 2007